

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>FRIEDA AARON, et al.</b>	<b>:</b>	<b>Consolidated Case No. 1:13-CV-202</b>
	<b>:</b>	
<b>Plaintiffs,</b>	<b>:</b>	<b>JUDGE: TIMOTHY BLACK</b>
	<b>:</b>	<b>MAGISTRATE: KAREN L. LITKOVITZ</b>
<b>v.</b>	<b>:</b>	
<b>ABUBAKAR ATIQ DURRANI, M.D., et al.</b>	<b>:</b>	<b>DEFENDANTS, ABUBAKAR ATIQ DURRANI, M.D. AND CENTER FOR</b>
	<b>:</b>	<b>ADVANCED SPINE TECHNOLOGY, INC.'S REPLY MEMORANDUM IN</b>
<b>Defendants.</b>	<b>:</b>	<b>SUPPORT OF THEIR MOTION FOR CONTEMPT</b>

The Defendants, Abubakar Atiq Durrani, M.D. and Center for Advanced Spine Technology, Inc. (hereinafter Durrani and CAST), state that the sole purpose for their Motion for Contempt is to point out that the Plaintiffs' counsel has clearly ignored this Court's Order by issuing a Press Conference Release concerning a related case in the same district in which this matter is pending. Counsel for the Defendants Durrani and CAST interprets this Court's Order to mean that Plaintiffs and Plaintiffs' counsel cannot comment on any aspect of any of the pending litigations against Dr. Durrani and CAST in the press or to associated outlets such as Facebook, Twitter, etc. Plaintiffs' counsel intentionally issued a press release concerning the recent indictment of Dr. Durrani to the public which is in direct violation of this Court's Gag Order.

Even in Plaintiffs' Response to the Contempt Motion, counsel continues to make derogatory remarks about Dr. Durrani by contending his clients were "butchered and battered."

Plaintiffs' counsel is attempting to circumvent this Court's Order by contending that he has every right to comment on "allegations" in the criminal matter as well as allegations pending in the civil matter including the present case.

When the original Gag Order was issued in the State Court case in Butler County, counsel wrongfully assumed that Plaintiffs' counsel would abstain from making any further comments in the other jurisdictions in which the matter was pending. Unfortunately, counsel for the Plaintiffs continues his barrage of inflammatory allegations against Dr. Durrani and CAST in the other venues. This is why counsel filed its Motion for Gag Order in the first place.

The Defendants Durrani and CAST's primary purpose in requesting a Gag Order is to allow Dr. Durrani and CAST to obtain a jury pool that has not been tainted by Plaintiffs' counsel's defamatory remarks before the evidence has been presented at trial. Plaintiffs' counsel however has ignored this Court's Order and for this reason alone the Defendants Durrani and CAST respectfully requests this Court for an Order issuing an appropriate remedy against the Plaintiffs and their counsel for failure to comply with the October 1, 2013 Order.

Plaintiffs' Response states, "If the Court believes counsel is in violation, counsel asks the Court for mercy and reasonable punishment factoring in all the facts and circumstances." Those facts and circumstances include intentional continued violation of each successive jurisdiction's Gag Order. A "reasonable punishment" would address, in the Court's discretion, both the deliberate and persistent nature of counsel's misconduct as well as the harm to the ability of Dr. Durrani and CAST to obtain an impartial jury.

For the foregoing reasons, the Defendants Durrani and CAST respectfully requests this Court for an Order holding Plaintiffs' counsel in contempt of Court for violation of original Order dated October 1, 2013

Respectfully submitted,

RENDIGS, FRY, KIELY & DENNIS, L.L.P.

s/Michael P. Foley

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and Counsel for Center for Advanced Spine  
Technologies, Inc.*

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed via the Court's CM/ECF system and, therefore, served upon all parties via their counsel of record this 19<sup>th</sup> day of November, 2013.

s/Michael P. Foley

Michael P. Foley